

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FILED BY S.D.C.
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JAMES M. GOULD
CLERK U.S. DISTRICT COURT
WD OF TN JACKSON

DAVISHA I. FAVORS,

Petitioner,

VS.

DEBORAH A. HICKEY,

Respondent.

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No. 05-1226-T/An

ORDER TRANSFERRING PETITION PURSUANT TO 28 U.S.C. § 1406(a)

On August 9, 2005, petitioner Davisha I. Favors, Bureau of Prisons inmate registration number 17364-076, an inmate at the Federal Prison Camp in Alderson, West Virginia ("FPC-Alderson"), filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Favors has neither paid the \$5.00 habeas filing fee nor filed an affidavit seeking leave to proceed *in forma pauperis*. However, as this petition is being transferred, the filing fee issue will be left to the transferee court. The Clerk shall record the respondent as FPC-Alderson warden Deborah A. Hickey.

The proper venue for a § 2241 petition is the prisoner's place of confinement. Wright v. United States Bd. of Parole, 557 F.2d 74, 77 (6th Cir. 1977) ("The habeas corpus power of federal courts over prisoners in federal custody has been confined by Congress through 28 U.S.C. § 2241 to those district courts within whose territorial jurisdiction the custodian

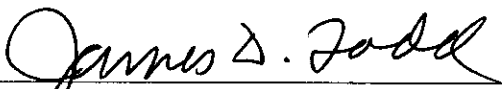
is located.”); see also United States v. Griffith, No. 95-1748, 1996 WL 316504, at *2 (6th Cir. June 10, 1996) (to the extent prisoner’s filing is construed as § 2241 petition, “the Eastern District of Michigan is not the proper venue to file a § 2241 motion for one incarcerated in Lompoc, California”). As Favours is confined in West Virginia, the Western District of Tennessee is not the proper venue for this habeas petition.

Twenty-eight U.S.C. § 1406(a) states:

The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.

For the reasons stated, this action should have been brought in the district in which the FPC-Alderson is located. Alderson is located in Greenbrier County, which is in the Southern District of West Virginia. 28 U.S.C. § 129(b). Therefore, it is ORDERED, pursuant to 28 U.S.C. § 1406(a), that this case is hereby TRANSFERRED to the Southern District of West Virginia.

IT IS SO ORDERED this 16th day of August, 2005.



JAMES D. TODD
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 2 in case 1:05-CV-01226 was distributed by fax, mail, or direct printing on August 17, 2005 to the parties listed.

Davisha I. Favors
Alderson Federal Prison Camp
17364-076
PO Box A
Alderson, WV 24910

Honorable James Todd
US DISTRICT COURT